

106TH CONGRESS  
1ST SESSION

# H. R. 1788

To deny Federal public benefits to individuals who participated in Nazi persecution.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 1999

Mr. FRANKS of New Jersey (for himself, Mr. FRELINGHUYSEN, and Mr. LANTOS) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To deny Federal public benefits to individuals who participated in Nazi persecution.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nazi Benefits Termi-  
5 nation Act of 1999”.

1 **SEC. 2. DENIAL OF FEDERAL PUBLIC BENEFITS TO NAZI**  
2 **PERSECUTORS.**

3 (a) IN GENERAL.—Notwithstanding any other provi-  
4 sion of law, an individual who is determined under this  
5 Act to have been a participant in Nazi persecution is not  
6 eligible for any Federal public benefit.

7 (b) DEFINITIONS.—In this Act:

8 (1) FEDERAL PUBLIC BENEFIT.—The term  
9 “Federal public benefit” shall have the meaning  
10 given such term by section 401(c)(1) of the Personal  
11 Responsibility and Work Opportunity Reconciliation  
12 Act of 1996, but shall not include any benefit de-  
13 scribed in section 401(b)(1) of such Act (and, for  
14 purposes of applying such section 401(b)(1), the  
15 term “alien” shall be considered to mean “indi-  
16 vidual”).

17 (2) PARTICIPANT IN NAZI PERSECUTION.—The  
18 term “participant in Nazi persecution” means an in-  
19 dividual who—

20 (A) if an alien, is shown by a preponder-  
21 ance of the evidence to fall within the class of  
22 persons who (if present within the United  
23 States) would be deportable under section  
24 237(a)(4)(D) of the Immigration and Nation-  
25 ality Act; or

1 (B) if a citizen, is shown by a preponder-  
2 ance of the evidence—

3 (i) to have procured citizenship ille-  
4 gally or by concealment of a material fact  
5 or willful misrepresentation within the  
6 meaning of section 340(a) of the Immigra-  
7 tion and Nationality Act; and  
8 (ii) to have participated in Nazi perse-  
9 cution within the meaning of section  
10 212(a)(3)(E) of the Immigration and Na-  
11 tionality Act.

12 **SEC. 3. DETERMINATIONS.**

13 (a) HEARING BY IMMIGRATION JUDGE.—If the At-  
14 torney General has reason to believe that an individual  
15 who has applied for or is receiving a Federal public benefit  
16 may have been a participant in Nazi persecution (within  
17 the meaning of section 2 of this Act), the Attorney General  
18 may provide an opportunity for a hearing on the record  
19 with respect to the matter. The Attorney General may del-  
20 egate the conduct of the hearing to an immigration judge  
21 appointed by the Attorney General under section  
22 101(b)(4) of the Immigration and Nationality Act.

23 (b) PROCEDURE.—

24 (1) RIGHT OF RESPONDENTS TO APPEAR.—

1 (A) CITIZENS, PERMANENT RESIDENT  
2 ALIENS, AND PERSONS PRESENT IN THE  
3 UNITED STATES.—At a hearing under this sec-  
4 tion, each respondent may appear in person if  
5 the respondent is a United States citizen, a per-  
6 manent resident alien, or present within the  
7 United States when the proceeding under this  
8 section is initiated.

9 (B) OTHERS.—A respondent who is not a  
10 citizen, a permanent resident alien, or present  
11 within the United States when the proceeding  
12 under this section is initiated may appear by  
13 video conference.

14 (C) RULE OF INTERPRETATION.—This Act  
15 shall not be construed to permit the return to  
16 the United States of an individual who is inad-  
17 missible under section 212(a)(3)(E) of the Im-  
18 migration and Nationality Act.

19 (2) OTHER RIGHTS OF RESPONDENTS.—At a  
20 hearing under this section, each respondent may be  
21 represented by counsel at no expense to the Federal  
22 Government, present evidence, cross-examine wit-  
23 nesses, and obtain the issuance of subpoenas for the  
24 attendance of witnesses and presentation of evi-  
25 dence.

1           (3) RULES OF EVIDENCE.—Unless otherwise  
2       provided in this Act, rules regarding the presen-  
3       tation of evidence in the hearing shall apply in the  
4       same manner in which such rules would apply in a  
5       removal proceeding before a United States immigra-  
6       tion judge under section 240 of the Immigration and  
7       Nationality Act.

8       (c) HEARINGS, FINDINGS AND CONCLUSIONS, AND  
9       ORDER.—

10           (1) FINDINGS AND CONCLUSIONS.—Within 60  
11       days after the end of a hearing conducted under this  
12       section, the immigration judge shall make findings  
13       of fact and conclusions of law with respect to wheth-  
14       er the respondent has been a participant in Nazi  
15       persecution (within the meaning of section 2 of this  
16       Act).

17           (2) ORDER.—

18           (A) FINDING THAT RESPONDENT HAS  
19       BEEN A PARTICIPANT IN NAZI PERSECUTION.—  
20       If the immigration judge finds, by a preponder-  
21       ance of the evidence, that the respondent has  
22       been a participant in Nazi persecution (within  
23       the meaning of section 2 of this Act), the immi-  
24       gration judge shall promptly issue an order de-  
25       claring the respondent to be ineligible for any

1 Federal public benefit, and prohibiting any per-  
2 son from providing such a benefit, directly or  
3 indirectly, to the respondent, and shall transmit  
4 a copy of the order to any governmental entity  
5 or person known to be so providing such a ben-  
6 efit.

7 (B) FINDING THAT RESPONDENT HAS NOT  
8 BEEN A PARTICIPANT IN NAZI PERSECUTION.—  
9 If the immigration judge finds that there is in-  
10 sufficient evidence for a finding under subpara-  
11 graph (A) that a respondent has been a partici-  
12 pant in Nazi persecution (within the meaning of  
13 section 2 of this Act), the immigration judge  
14 shall issue an order dismissing the proceeding.

15 (C) EFFECTIVE DATE; LIMITATION OF LI-  
16 ABILITY.—

17 (i) EFFECTIVE DATE.—An order  
18 issued pursuant to subparagraph (A) shall  
19 be effective on the date of issuance.

20 (ii) LIMITATION OF LIABILITY.—Not-  
21 withstanding clause (i), a person or entity  
22 shall not be found to have provided a ben-  
23 efit to an individual in violation of this Act  
24 until the person or entity has received ac-  
25 tual notice of the issuance of an order

1                   under subparagraph (A) with respect to  
2                   the individual and has had a reasonable  
3                   opportunity to comply with the order.

4           (d) REVIEW BY ATTORNEY GENERAL; SERVICE OF  
5 FINAL ORDER.—

6                   (1) REVIEW BY ATTORNEY GENERAL.—The At-  
7           torney General may, in her discretion, review any  
8           finding or conclusion made, or order issued, under  
9           subsection (c), and shall complete the review not  
10          later than 30 days after the finding or conclusion is  
11          so made, or order is so issued. Otherwise, the find-  
12          ing, conclusion, or order shall be final.

13                  (2) SERVICE OF FINAL ORDER.—The Attorney  
14          General shall cause the findings of fact and conclu-  
15          sions of law made with respect to any final order  
16          issued under this section, together with a copy of the  
17          order, to be served on the respondent involved.

18          (e) JUDICIAL REVIEW.—Any party aggrieved by a  
19          final order issued under this section may obtain a review  
20          of the order by the United States Court of Appeals for  
21          the Federal Circuit, by filing a petition for such review  
22          not later than 30 days after the final order is issued.

23          (f) ISSUE AND CLAIM PRECLUSION.—In any adminis-  
24          trative or judicial proceeding under this Act, the ordinary  
25          rules of issue preclusion and claim preclusion shall apply.

1 **SEC. 4. JURISDICTION OF UNITED STATES COURT OF AP-**  
2 **PEALS FOR THE FEDERAL CIRCUIT OVER AP-**  
3 **PEALS UNDER THIS ACT.**

4 Section 1295(a) of title 28, United States Code, is  
5 amended—

6 (1) by striking “and” at the end of paragraph  
7 (13);

8 (2) by striking the period at the end of para-  
9 graph (14) and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(15) of an appeal from a final order issued  
12 under the Nazi Benefits Termination Act of 1999.”.

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